NORTH SEA DECOMMISSIONING DEMANDS A STANDARD CONTRACT

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The lack of a standard legal contract to cover the decommissioning and removal of North Sea offshore oil and gas installations needs to be urgently addressed. The first major decommissioning was done under a modified installation contract, leading to losses and liabilities for the contractor. Just as building the first offshore oil installations opened up new areas of law 30 years ago, today the need to remove the older installations in an environmentally acceptable manner is opening up a new industry and a new field of law.

There are more than 450 platforms, more than 13,000km of pipeline and 900 wells in the North Sea, of which more than 2,000km of pipeline and more than 150 platform installations are in the Dutch sector. Over the next decade, the speed at which these will become obsolete will increase, and decommissioning work will accelerate.

Licence holders and operators of North Sea offshore energy installations are going to have to spend around €50bn decommissioning and removing all of the obsolete infrastructure in the North Sea. There are a number of installations that will have to be decommissioned and removed in the next two or three years. Work on the second biggest project is under way in the Norwegian Ekofisk field. Although there are attempts currently being made to define a standard contract, by LOGIC[1] and other organisations, as yet there is nothing proven in practice.

The situation is complicated because of different legal regimes. In the UK sector, there is a carry back liability, which means that removal and environmental liability costs can be shared back along the chain of users, owners and licence holders from the time of the original installation until its decommissioning. In the Norwegian sector, there is a slightly different legal regime.

The last licence holder for the block is responsible for the removal of installations in the Dutch sector. Any offshore oil installation in the Dutch sector is considered a mining installation under Dutch law, and the Dutch Mining Act applies. It states that a mining installation that is no longer in service needs to be removed. But the Act does not specify how or when this should be done. The Mining Decree gives some guidelines. Article 60 states that the decommissioning and removal of the installations will have to be done in accordance with a removal plan drafted by the operator.

In the Dutch sector, the last operator and licence holder will try to contract a decommissioning firm to remove the installations from the field. They will also try to impose all of the risks upon the contractor. So far, the demolitions attempted have been done under modified offshore installation contracts, with poor results for the contractors. For future work, a clearer contract with better risk-sharing is required.

It could be argued that the legal status of the structure of an offshore installation changes when the contractor cuts off a lump of structure and lifts it out of the sea, and the obsolete structure on the crane ceases to be a structure and becomes waste. It then has to be imported legally as waste and disposed of under the waste disposal regulations. Degasification of facilities, removal of oil and making wells safe by permanent plugging and abandonment will all form part of the decommissioning process. Many of these structures contain asbestos and certainly all of them contain dangerous liquids, toxic PCBs in wiring and other hazardous material. But given their age and the many modifications done, not all of this material may be fully documented, with the result that there may be surprises during the decommissioning. The contractor will take full responsibility for the health and safety of workers and the disposal of this waste, but needs a clear legal regime to share the associated risks.

1 The subsidiary of Oil and Gas UK, which develops and issues standard contracts for use in the UK oil and gas industry.